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N2 Packaging Systems, LLC

IN THE UNITED STATES DISTRICT COURT
STATE OF ARIZONA

N2 Packaging Systems, LLC, an Arizona
 limited liability company,

Plaintiff,

v.

N2 Pack Canada, Inc., an unincorporated
 fictitious entity; Eric Marciniak, individually;
 Brendan Pogue, individually; Alejo Abellan
 aka Alex Abellan, individually; Chakra
 Cannabis Corp., a Canadian federal
 corporation; and DOES 1-10, inclusive,

Defendants.

1079765 B.C. Limited d/b/a N2 Pack Canada,
 Inc., a British Columbia entity; Eric
 Marciniak; Brendan Pogue; Alejo Abellan
 aka Alex Abellan; Chakra Cannabis Corp., a
 Canadian federal corporation,

Counterclaimants,

v.

N2 Packaging Systems, LLC, an Arizona
 limited liability company,

Counterdefendant.

Case No. 2:19-cv-02351-PHX-GMS

**Stipulated Motion for Entry of Final
 Judgment as to Defendant and
 Counterclaimant 1079765 B.C. d/b/a N2
 Pack Canada**

(The Honorable G. Murray Snow)

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Plaintiff/Counterdefendant N2 Packaging Systems, LLC (“Plaintiff” or “N2 Packaging”) and Defendants/Counterclaimants 1079765 B.C. Limited d/b/a N2 Pack Canada, Inc. (“1079765 B.C.”), Eric Marciniak (“Marciniak”), Brendan Pogue (“Pogue”), Alejo Abellan aka Alex Abellan (“Abellan”), and Chakra Cannabis Corp. (“Chakra”) (collectively, “Defendants” and together with Plaintiff are hereafter referred to as “the Parties”), hereby stipulate to the entry of final judgment against N2 Canada pursuant to Fed. R. Civ. P. 58(b)(2)(B) in the approved-form of judgment lodged concurrently herewith pursuant to the following agreed-upon terms to fully-resolve this action as to 1079765 B.C. only.

This Stipulated Motion is being filed contemporaneously with the Parties’ stipulation for entry of a proposed form of order regarding the remaining parties and claims.

I. Background and Procedural History

This case involves Plaintiff’s claims for breach of contract, breach of the implied covenant of good faith and fair dealing, tortious interference with contract, fraud in the inducement, and alter ego, based on Defendants’ alleged misappropriation of Plaintiff’s trade secrets and other confidential and proprietary information.

Though Plaintiff removed direct causes of action for patent infringement when it filed its First Amended Complaint (Doc. 9), the Court later determined that the Amended Complaint still pleads patent infringement claims. (Doc. 34).

Defendants filed their Answer and Counterclaims (Doc. 44), alleging breach of contract, breach of the implied covenant of good faith and fair dealing, declaration of non-infringement of U.S. Patent 8,863,947,¹ and declaration of no confidential information or trade secret in published patent or patent application. Plaintiff filed an answer to Defendants’ Counterclaims.

II. Stipulated Findings and Conclusions

The Parties stipulate as follows:

1. 1079765 B.C. is in breach of its contract with N2 Packaging, Inc., dated December

¹ Defendants reserved the right to seek declaratory relief as to the non-infringement of U.S. Patents 9,878,821 and 10,124,941.

22, 2017;

2. 1079765 B.C. breached its implied covenant of good faith and fair dealing with regard to its agreement with N2 Packaging;

3. 1079765 B.C. misappropriated N2 Packaging's trade secrets and breached the confidentiality provisions of its contract with N2 Packaging;

4. 1079765 B.C. tortiously interfered with contracts between N2 Packaging and third-parties; and

5. 1079765 B.C. infringed upon N2 Packaging patents.

III. Stipulated Damages and Attorney's Fees

The Parties stipulate to the following damages and attorneys' fees to be awarded in favor of Plaintiff and against 1079765 B.C. only:

1. Damages in the amount of \$92,000.00; and

2. Attorneys' fees in the amount of \$289,622.50.

The foregoing damages are only to be awarded against 1079765 B.C., and not any of the remaining defendants. For the reasons stated herein, the Parties jointly move and respectfully request that the Court find there is no just reason to delay entry of Judgment against 1079765 B.C., and enter the form of judgment lodged herewith against 1079765 B.C. pursuant to Rules 54(b), 58(b)(2)(B) and 58(d) of the Federal Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this 14th day of September, 2021.

BIANCHI & BRANDT

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2021, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, which transmitted notice of the filing to all counsel of record.

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By: /s/ Nicholas J. Scavio

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